IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21508 of 2004

Between:

1 Smt. A. Sujatha, W/o. A. Subba Rao,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
2 Smt. B. Simhachalam, W/o. B. Sanyasi Rao,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
3 Smt. G. Malathi, W/o. Yadagiri,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
4 Smt. N. Rajeshwari, W/o. Madhukarachary,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
5 smt. K. Ramulamma, W/o. Ramulu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
6 Sri. K. Raju, S/o. Ramulu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
7 Smt. B. Yellamma, W/o. Malsoor,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
8 Smt. H. Jyothi, W/o. Balaji,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
9 smt. Marka Venkatamma, W/o. Yadagiri,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
10 Smt. Kurshid Begum, W/o. Khairath Ali,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
11 Smt. Fahemunnisa Begum, W/o. Md. Fathemadh,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
12 H. Kasturi, W/o. Subash,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
13 Smt. K. Saraswathi, W/o. Ganesh,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
14 Smt. K. Vijayalakshmi, W/o. Baswaraj,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
15 Smt. N. Kalavathy, W/o. Pandu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
16 smt. M. Madhavi, W/o. Ramulu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
17 smt. Punyavthi, W/o. Anjaiah,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

18 Smt. H. Padma, W/o. Ashok,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
19 Smt. Sujatha, W/o. Venkata,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
20 smt. H. Kousalya, W/o. Gurunath,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
21 Smt. M. Ramulamma, W/o. Ramulu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
22 Smt. G. Meera, W/o. Prakash,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
23 Smt. G. Swaroopa, W/o. Ramesh,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
24 Smt. Shashikala, W/o. Devaraj Yadav,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
25 sri T. Narsimulu, S/o. Venkataiah,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
26 smt. Fathima, W/o. Maqbool,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
27 Smt. K. Dayamani, W/o. Benarjee,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
28 Smt. Gunte Parwathamma, W/o. Muthyalu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
29 Smt. Kavali Ashamma, W/o. Venkataiah,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
30 Smt. CH. Vijaya, W/o. Srinu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
31 Smt. M. Parvathi, W/o. Ganapathiraju,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
32 Smt. G. Jyothi, W/o. Mahender Goudm
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
33 Smt. P. Parvathi, W/o. Appalanaidu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
34 Smt. B. Rangamma, W/o. Hanumanthu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
35 Smt. K. Sumathamma, W/o. Ramaiah,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
36 Smt. N. Narayanamma, W/o. Koteswara Rao,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
37 Smt. K. Padma, W/o. Venkateshm,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
38 Smt. Assefabee, W/o. shamsheer Ali,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
39 smt. Kamalamma, W/o. Srinivas,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
40 Smt. H. Kavitha, W/o. Sailu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
41 MD Moin, S/o. Sadak Ali,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
42 Md. Yusuf, S/o. Sadakmiya,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
43 MD. Hussain, S/o. Bandelli,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.
44 Mahadevi, W/o. Mahadeva Swamy,

R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

45 smt. H. Kavitha, W/o. siddappa,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

46 Smt. Khairunnisabegum, W/o. Nazeermiya,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

47 smt. J. Rajeshwari, W/o. Kalahasthi,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

48 Smt. Depuri Mamatha, W/o. D. Srinivasulu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

49 Smt. J. Varamma, W/o. Subba Rao,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

50 Midhyala Govindamma, W/o. Srinivasulu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

51 Smt. S.K. Khirunnisa Fathima, W/o. Ghouse,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

52 Smt. Kamapally Padma, W/o. Srinu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

53 Smt. Depuri Lakshmi, W/o. Madhava,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

54 Smt. Depuri Lakshmi, W/o. Maladri,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

55 Smt. Safiabegum, W/o. Mahaboob,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

56 Smt. Pallepu Venkatramma, W/o. Chitti Radhakrishna,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

57 Smt. Billa Aruna, W/o. Arjun,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

58 Smt. Poloji Krishnaveni, W/o. Veerachary,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

59 Smt. Nallappa Varamma, W/o. Brahmaiah,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

60 smt. K. Nagamani, W/o. Suryachandra Rao,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

61 Smt. M. Lakshmi, W/o. Thirupathinaidu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

62 Smt. C. Indira, W/o. Raju,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

63 Smt. Sampangi Vijayamma, W/o. Sreenu,
R/o. Stalin Nagar, Miyapur Village, Serlingam Palli Mandal, R.R. District.

..... PETITIONER(S)

AND

1 The Hyderabad Urban Development Authority, Rep. by its Chairman, Begumpet, Hyderabad.

2 The District Collector, Ranga Reddy District, Lakadika Pool, Hyderabad.

3 The Joint Collector, Ranga Reddy District, Lakadika Pool, Hyderabad.

4 The Mandal Revenue Officer, Serilingampalli Mandal,
Ranga Reddy District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in issuing the notices dated 18-11-2004 stating that to remove the dwelling houses/structures of the petitioners in S.No.100 situated at Stalin Nagar, Miyapur Village, Sherlingampalli Mandal, R.R. District, as arbitrary illegal, unconstitutional, against the principles of natural justice and void and contrary to the directions of the Hon'ble Apex Court and High Court and consequently direct the respondents not to dispossess the petitioners either by demolishing the huts/houses of the petitioners in S.No.100 within boundaries East; Prasanthanagar, North; 100 survey No. Vacant Land, West; Suvey No.100, South 95 survey No. , Stalin Nagar, Miyapur Village Sherlingampalli Mandal, R.R. District, by suspending the notices dated 18-11-2004 of the 4th respondent, pending disposal of the Writ Petition.

Counsel for the Petitioners: MR.KANAKAMEDALA RAVINDRA KUMAR

Counsel for the Respondents: Mr. S.V. Bhatt for R1, GP FOR REVENUE for R2 to R4.

The Court, at the Stage of admission, made the following:

ORDER:

It is stated in the affidavit filed in support of the writ petition that the land covered under Survey No. 100 measuring about Ac.450-00, Miyapur village, Ranga Reddy district is a government land covered with rocks and hillocks. That the petitioners are poor persons eking out livelihood by working as labourers had cleaned the boulders and rocks and leveled the land and living therein since 1988 by constructing small houses admeasuring about 65 to 68 sq.yards. The petitioners claim to have made representations on 18-7-1998 and 29-9-2004 to the District Collector for assignment of said land and that no action was taken on the said representations. The petitioners stated to have made applications to the authorities on 8-8-2004 requesting to regularise the house sites/houses in their favour in accordance with the terms laid down in G.O.Ms.No.515 dated 19-4-2003. While so, some third parties filed a Special Leave (Civil) CC No.7673 –7675 /2003 before the Hon'ble Supreme Court and the Hon'ble Supreme Court passed the order dated 8-9-2003, which reads as under:

"Delay condoned in both matters. Issue notice. Status quo shall be maintained in the meanwhile."

Thereafter, the petitioners herein filed Writ Petition No.18900 of 2004 on the ground that the respondents are trying to dispossess them from the subject land. The said writ petition was disposed of by order dated 13.10.2004, the operative portion of the said order reads as under:

" In view of the same, the respondents cannot remove the encroachments made prior to the status quo order by the members of the petitioner association without disposing of their representation and without following the due procedure. However, the respondents are at liberty to remove the encroachments identified subsequent to the status quo order passed by the Supreme Court after due notice."

Thereafter the 4th respondent issued a notice dated 18-11-2004 under Section 7 of the Andhra Pradesh Land Encroachment Act III of 1905 directing the petitioners herein to remove the structures within 7 days from the date of service of said notice. Questioning the said notice on the ground that the same is violative of the orders passed by the Supreme Court and orders passed by this Court in W.P.18900 of 2004, the present writ petition is filed.

Pursuant to notice, first respondent filed counter affidavit,
inter alia, stating that pursuant to directions of the second respondent vide letter dated 20-8-2003, the possession of the land covered under survey Nos. 100 and 101, was handed over to the first respondent for development, under a panchanama and that the Hon'ble Supreme Court passed status quo order on 8-9-2003 and that subsequent to the said order the petitioners herein made encroachments over the land in question and they are not covered by the order of the Apex Court. It is further stated that said encroachments were obstructed by respondents authority and the some of the encroachers approached this Court by filing W.P.633 of 2004, which was disposed of with direction as under:

"The respondents are at liberty to remove the encroachments identified subsequent to the status quo order after due notice to the petitioners. Encroachers which were not covered by the status quo orders shall not be removed until the representation of the petitioners are disposed of."

It is further stated in the counter affidavit that pursuant to above directions, a survey was conducted and identified about 109 owners of the huts, which came up after the status quo order of the Apex Court and notices were issued to them.

The 4th respondent filed counter affidavit narrating the chronology of events took place from 1988 till the orders passed by the Supreme Court and stating that the petitioners herein are not parties to the proceedings before the Apex Court and that a committee comprising of Mandal Revenue Officer, Sherlingampalli, Municipal Commissioner, Sherlingampalli and the Assistant Engineer, Electricity Department inspected the huts/houses in survey Nos. 100 and 101 of the Miyapur village on 9-11-2004 to identify the illegal encroachments and submitted its report to the District Collector and that the petitioners had made encroachments recently and no applications for regularization of the petitioners are pending with the authorities. It is

also stated that the case of the petitioners cannot be considered in terms of G.O.Ms.No.508 and 515 since the structures were not existing by 1990 and are made very recently.

On the other hand, the learned counsel for petitioner submitted that it is incorrect to state that the petitioners had made encroachments recently and are not covered by the benefits of G.O.Ms.No.515 dated
19-4-2004. It is further stated that there is sufficient material to prove the possession of the petitioners and without considering such evidence, the respondents are resorting to evict the petitioners from the subject land.

The learned Government Pleader for Revenue submitted that since a show cause notice was issued to the petitioners, they can very well approach the authorities and substantiate their claim by furnishing the material to prove their possession.

Heard learned counsel for petitioner, learned Government Pleader for Revenue and Mr.S.V.Bhatt for first respondent. With their consent, the writ petition is taken up for final disposal at the stage of admission.

Having regard to above facts, I deem it appropriate to dispose of the writ petition directing the petitioners to submit all the material in support of their claim together with explanation to notice dated 18.11.2004 within a period of ten days from the date of receipt of copy of this order. On filing such material and explanation, the respondents are directed to consider the same and if necessary cause an enquiry in to the matter and pass appropriate orders in accordance with law expeditiously. Till such time, the status existing as on today shall be continued with regard to possession.

Subject to above observation, the present writ petition is disposed of. No costs.

N.V.RAMANA,J

28-12-2004.

Nsr/TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman, Hyderabad Urban Development Authority, Begumpet, Hyderabad.
2 The District Collector, Ranga Reddy District, Lakadika Pool, Hyderabad.
3 The Joint Collector, Ranga Reddy District, Lakadika Pool, Hyderabad.
4 The Mandal Revenue Officer, Serilingampalli Mandal, Ranga Reddy District.

5 Two CCS to GP for Revenue, High Court of AP, Hyderabad (OUT)

6 Two CD copies.